

### **REMARKS**

Claims 1, 4-10, 18 and 19 were rejected in the Office Action of November 19, 2003. A response to that Office Action should have been filed, on or before February 19, 2004. A petition and the requisite fee to extend by two (2) months the time to file a response are included herewith.

#### **The res judicata and double-patenting rejections**

Claims 1, 4-10, 18 and 19 were rejected under the principles of *res judicata*.

Claim 18 was also rejected under the doctrine of obviousness-type double patenting in light of claims 1 and 22 of U.S. Pat. No. 6,059,457.

Claims 1, 4-10 and 19 were rejected under the doctrine of obviousness-type double patenting in light of claims 14-21 of U.S. Pat. No. 6,059,457 in view of Anderson, "113 (previously cited) or Edelman '517.

A terminal disclaimer has been filed contemporaneously herewith. The rejection of claims 1, 4-10, 18 and 19 under the doctrine of obviousness –type double patenting should be withdrawn.

The above-identified claims have been amended to include a limitation that requires the compression molded segment seal portion to have a thickness less than the combined thickness of the first and second profile segments recited in the claims. Support for the limitation added to the claims is found in the specification on page 8, lines 11-14. No new matter has been added.

The obviousness-type double patenting claim rejections are traversed by the amendments to the independent claims. With regard to the *res judicata* rejection, the Board did not consider whether any of the prior references disclosed a molded seal segment seal portion having a thickness less than the combined thickness of the first and second profile strips. The *res judicata* rejection is therefore traversed by the amendments to the independent claims.

#### **The §102 prior art rejections**

Claims 1, 4-10, 18 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by Tilman '689 for reasons set forth in the Board's Decision of July 11, 2003.

Mr. Tilman states in his declaration that the seal in his '689 patent is not airtight under any definition of airtight. The Applicant requests the Examiner to consider the import of Mr. Tilman's statement: **the seal in the '689 patent is not airtight under any definition of airtight.**

In light of the Tilman declaration, the rejection of claims 1, 4-10, 18 and 19 as being anticipated by Tilman '689 is a nonsequitur. Nevertheless, the independent claims have been amended to recite that the thickness of the molded segment seal portion is less than the combined thickness of the first and second profile strips. Support for this new limitation is clearly found in the specification on page 6, lines 12-14. No new matter has been added.

Claims 1, 4-10, 18 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by Edelman '517. As set forth above, the independent claims have been amended to recite that the thickness of the molded segment seal portion is less than the combined thickness of the first and second profile strips. Such a characteristic is not shown in Edelman. The rejection of the claims under Edelman has therefore been traversed. Support for this new limitation is clearly found in the specification on page 6, lines 12-14. No new matter has been added.

Claims 1, 4-10, 18 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by Anderson '113. As set forth above, the independent claims have been amended to recite that the thickness of the molded segment seal portion is less than the combined thickness of the first and second profile strips. Such a characteristic is not shown in Anderson '113. The rejection of the claims under Anderson '113 has therefore been traversed. Support for this new limitation is clearly found in the specification on page 6, lines 12-14. No new matter has been added.

Claim 18 was rejected under §102(e) as being anticipated by Sprehe et al. '457. For the reasons set forth above, the amendment to the claims are believed to also traverse the §102(e) rejection of claim 18 under the Sprehe et al. reference.

The §103 prior art rejections

Claims 1, 4-10 and 19 were rejected under §103(a) as being unpatentable over Sprehe et al. '457 in view of Anderson '113 or Edelman '517.

The Applicant submits that none of the referenced cited by the Examiner show or suggest any sort of device or structure that will show that a reclosable seal has been tampered with. The Applicant therefore submits that the rejection under §103(a) has been traversed.

Conclusion

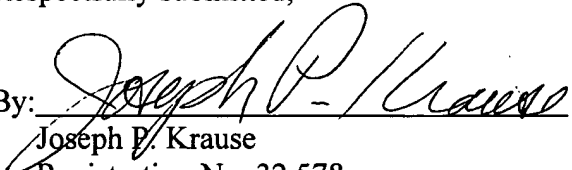
The claims should be allowed to issue for at least two reasons. First, Mr. Tilman stated unequivocally in his declaration that the seal disclosed in his '689 patent is not air tight under any definition of airtight. Rejecting the claims because the '689 patent allegedly teaches an airtight

Appl. No. 09/415,696  
Amdt. Of: March 30, 2004  
Reply to Office Action of November 19, 2003

seal is improper. Secondly, the newly-added claim limitation is not shown or suggested by any of the prior art of record,

The Examiner is invited to contact the undersigned directly, at his convenience.

Respectfully submitted,

By:   
Joseph P. Krause  
Registration No. 32,578

Date: March 30, 2004  
Vedder, Price, Kaufman & Kammholz, P.C.  
222 North LaSalle Street  
Chicago, IL 60601  
(312) 609-7878  
FAX: (312) 609-5005

CHICAGO/#1203398.2